IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.715 OF 2006

Maruti Gopal Talkar .. Petitioner

Versus

Shanka Shankar Talkar @

Shaila Shrikant Pawar .. Respondent

Mr.R.R.Salvi for petitioner.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th February 2006.

P.C.

. Heard Mr.Salvi for petitioner.

2. By this petition under Article 227 of the

Constitution of India, petitioner challenges the order of lower appellate court which is passed during the course of hearing of his appeal. The lower appellate court has by the order under challenge rejected application of petitioner appellant for production of additional evidence in appellate court. The lower appellate court has passed the order under challenge observing that application is invoking its power under Order XXXXI Rule 27(1)(b) which reads as under:-

> "27(1)(b): the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgement, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced or witness to be examined."

3. With the assistance of Mr.Salvi I have

perused the impugned order. Mr.Salvi is unable to point out that either the order or the observation made therein would prevent petitioner appellant from raising appropriate contentions with regard to the sale deed which is already exhibited or for the appellate court to pass appropriate orders on merits and in accordance with law, including taking cognisance of this submission of petitioner appellant. Needless to state that the order under challenge does not prevent the petitioner from raising this contention or for the lower appellate court to deal with the same and pass appropriate orders in accordance with law. With this clarification, petition dismissed.

(S.C.DHARMADHIKARI, J)